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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/556,852	04/21/2000	Charles A. Lieder	013129-00025	6369
22904 7590 01/23/2009 LOCKE LORD BISSELL & LIDDELL LLP ATTN: IP DOCKETING 600 TRAVIS SUITE 3400 HOUSTON, TX 77002-3095				
EXAMINER TOOMER, CEPHIA D				
ART UNIT 1797		PAPER NUMBER		
MAIL DATE 01/23/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* CHARLES A. LIEDER,  
LLOYD E. FUNK, AND  
DAVID A. BARKER

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Application No. 09/556,852  
Technology Center 1797

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Mailed: January 23, 2009

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Before DELORES LOWE, *Review Team Paralegal*  
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 12, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

**APPEAL BRIEF, GROUNDS OF REJECTION**

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed February 22, 2007 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 1, 17, 18, 26, 30, 34, 38 are rejected under 35 U.S.C. 112, first paragraph, a failing to comply with the written description requirement; whereas Appellants have either not indicated the grounds of rejection of these claims or has improperly listed these claims as claims 1-9, 17-22, 26-40 fail to comply with the written description requirement under 35 U.S.C. § 112, First Paragraph, and claims 11-12 are allowable. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on February 22, 2007 defective;
- 2) notify Appellants to file a paper properly addressing the Grounds of rejection of all claims; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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